

**TOWN OF COTTAGE GROVE
TOWN BOARD ORDINANCE 2020-08-26**

**AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES OF THE TOWN
OF COTTAGE GROVE, DANE COUNTY, WISCONSIN TO REVISE PARK
FEES TO MEET THE STATE IMPACT FEE LAW**

WHEREAS, 2017 Wisconsin Act 243 requires that any park fee on new residential development may be imposed only under the requirements and procedures of Wisconsin's impact fee law (Section 66.0617, Wis. Stats.), including the preparation and adoption of a public facilities needs assessment; and

WHEREAS, the Town's "fee in lieu of making the required (park) land dedication" and a "parkland equipment fee" in place prior to adoption of this Ordinance did not comply with such new State requirements; and

WHEREAS, on August 26, 2020, following a Class 2 notice, the Town Plan Commission and Town Board held a joint public hearing on the proposed amendments to Chapter 15 of the Municipal Code included in this Ordinance; and

WHEREAS, following such hearing, the Commission favorably recommended Town Board adoption of this Ordinance; and

WHEREAS, the Town Board finds that the proposed amendments to the Code of Ordinances contained in this Ordinance are consistent with the Town of Cottage Grove Comprehensive Plan and with the Public Facilities Needs Assessment adopted by the Town Board via Resolution 2020-08-26.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Cottage Grove, Dane County, Wisconsin, does ordain that the following amendments to Chapter 15 of the Town Code of Ordinances are hereby adopted:

Section 1. Sections 15.03(4)(b)3. and 4. are hereby amended to read as follows:

3. Where, in the sole discretion of the Town Board, there is no land suitable for public parks land dedication within the proposed land division or subdivision, the dedication of park land required by sec. **Error! Reference source not found.** above is not feasible, the dedication of park land would not be compatible with the Town Comprehensive Plan, or the Town Board determines that a cash contribution will better serve the public interest, the Town Board may require the subdivider to pay a park land impact fees in lieu of making the required land dedication, per sec. 15.03(4)(d).

~~The amount of any fee imposed shall be determined as follows: the number of proposed residential dwelling units within the plat shall be multiplied by 2,000; then the resulting product shall be divided by 43,500; and then the resulting quotient shall be multiplied by the fair market value~~

~~of an acre of residential land within the plat as determined by the Town Assessor.~~

4. The Town Board may, in its sole discretion, permit the subdivider to satisfy the requirements of sec. **Error! Reference source not found.** above by combining a public park land dedication with ~~a~~park land impact fee payment(s). The fee, in such cases, shall be determined by subtracting ~~the fair market value~~\$15,000 per acre for ~~of~~ the dedicated land, ~~as determined by the Town Assessor,~~ from the total park land impact fee which would have been ~~imposed~~required had no park land been dedicated by the subdivider. The relationship between the park land dedication and park land impact fee amount shall be documented in the contract for improvements under sec. 15.03(3).

Section 2. Sections 15.03(4)(b)5. through 15.03(4)(b)7. are hereby repealed.

Section 3. Section 15.03(4)(d) of the Town Code of Ordinances is hereby repealed and recreated to read as follows:

(d) Park Land and Recreation Improvement Impact Fees.

1. Intent. This subsection (d) is intended to impose park land and recreation improvement impact fees in amounts based upon the number of new residential dwelling units, in order to finance the acquisition and improvement of park land, the demand for which is generated by new residential development throughout the Town. Collected fees shall be used to finance capital costs for new or enlarged capital improvements that substantially benefit those developments that pay the fees. The park land impact fee and recreational improvement impact fee described in this subsection (d) have been imposed under, and are authorized by, § 66.0617, Wis. Stats.
2. Timing. The impact fees shall be paid with each building permit application, except that a development agreement under this Chapter may provide for fee payment at an earlier date. As used in this section, the term "building permit" shall not include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, which result in no increase in the number of residential dwelling units.
3. Amounts. The park land impact fee shall be \$375 per residential dwelling unit. The recreation improvement impact fee shall be \$1,160 per residential dwelling unit. These fees are based on 2020 dollars. The Town Board may by resolution adjust these fee amounts thereafter using the percentage change in the Consumer Price Index from the U.S. Bureau of Labor Statistics. The Town Treasurer shall maintain records of the current fees and adjustment calculations.

4. **Basis.** The fee amounts in subsection 3 are per the public facility needs assessment adopted pursuant to Resolution 2020-09-08 and on file with the Town Clerk. The adopted needs assessment shall also be used as the basis for expenditure of collected impact fees pursuant to this subsection (d). At the time that the Town collects each impact fee, it shall provide to the applicant or developer from which it received the fee an accounting of how the fee will be spent, which may be the needs assessment or a summary thereof.
5. **Accounting.** The Town Treasurer shall place all collected impact fees in a separate segregated interest-bearing account, which shall be accounted for separately from the other Town funds. Each collected fee shall be identified by parcel number and date paid within the fund. Impact fee revenues and interest earned on impact fee revenues may be expended only for the particular capital costs for which the impact fee was imposed, or refunded under subsection 6.
6. **Refunds.** Any collected impact fee that is not used within 8 years after it is collected to pay the capital costs for which it was imposed shall be refunded to the payer of such fee, along with any interest that has accumulated.
7. **Potential Waiver or Reduction.** The impact fee amounts under subsection 3 may be waived or reduced in one or more of the following circumstances:
 - a. By the Building Inspector for the park land impact fee, where the subdivision plat that includes the dwelling unit dedicated public park land pursuant to the requirement in sec. 15.03(4)(b), with the reduction proportionate to the extent that the full requirement was met by such dedication under sec. 15.03(4)(b)4.
 - b. By the Town Board for either or both fees, by request of the subdivider or applicant for a building permit of the proposed dwelling unit, where it determines that their imposition would have a substantial adverse effect on the availability of housing intended to be affordable to those below the median household income in Dane County. The substantial adverse effect must be supported by evidence provided by the subdivider or applicant.
8. **Appeals.** A subdivider or an applicant for a building permit may appeal the amount, collection, or use of the impact fee, and any property owner may appeal a decision on a claim for refund of unexpended impact fees, under the provisions of Chapter 68, Wis. Stats. If the notice of appeal challenges the imposition of an impact fee, or the amount imposed, the subdivider or applicant may pay the fees imposed under protest and the Building Inspector shall issue any building permits withheld solely due to the nonpayment of the fees. If the applicant prevails on appeal, the Town Treasurer shall refund that portion of the fee so paid as finally determined in the appeal process.

Section 4. Section 15.15 is hereby amended to read as follows:

15.15 SIGNING OF CERTIFICATE.

After entering the contract to provide all required improvements; after posting the security required by TCG § **Error! Reference source not found.**; after payment of any fee imposed pursuant to ~~TCG § 15.03(4)(b)~~this Chapter and the contract; after payment of any area charges for storm sewer and storm water drainage facilities; after payment of all outstanding charges due against the lands for local sewers, interceptors, force mains, and life-lift stations previously installed by the Town, Madison Metropolitan Sewerage District or any other sewerage district; and after the subdivider has met all other requirements, the Town Clerk shall execute the certificate inscribed upon the face of the plat or certified survey map attesting to the approval thereof and return it to the subdivider for recording.

Section 5. The Table of Contents of Chapter 15 is hereby amended to reflect the changes in this Ordinance.

Section 6. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

This above and foregoing Ordinance was duly adopted at a meeting of the Town Board of the Town of Cottage Grove on the ____ day of ____, 2020, by a vote of ____ in favor and ____ opposed.

TOWN OF COTTAGE GROVE

Kris Hampton, Town Chair

Attested by:

Kim Banigan, Town Clerk